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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,582	07/31/2001	Andrew Carl Root	ENL-275-A	2198

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Young & Basile PC
Suite 624
3001 West Big Beaver Road
Troy, MI 48084-3107

EXAMINER

COURSON, TANIA C

ART UNIT	PAPER NUMBER
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2859

DATE MAILED: 09/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/918,582

Applicant(s)

ROOT, ANDREW CARL

Examiner

Tania C. Courson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 10 is/are pending in the application.
- 4a) Of the above claim(s) 8 and 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

1. The election requirement stated in the last office action (Paper No. 4) is hereby repeated and thus made FINAL.
2. Applicant's election with traverse of the species Group I (Figures 1 and 3-4, readable on claims 1-7 and 10) in Paper No. 5 is acknowledged. The traversal is on the ground(s) that Figure 2 is the same embodiment as Figure 1. This is found persuasive because Figure 2 does show the same embodiment as Figure 1, although Figure 2 also shows a zero reset button 34, the applicant points out that this feature is not claimed in the claims of the original patent application as filed.
3. Claims 8-9 withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 5.
4. Applicant's comments regarding including Figure 2 as part of species Group I (Figures 1 and 3-4) is persuasive. The examiner agrees to combine the species Group I (Figures 1 and 3-4) with Group II (Figures 2-4), this combined Group reads upon claims 1-7 and 10. Thus, claims 1-7 and 10 will be further examined in this action.

Priority

5. This application filed under former 37 CFR 1.62 lacks the necessary reference to the

prior application. A statement reading "The present application claims priority under 35 USC 119 to Great Britain Application No. GB-0102389.4, filed on January 31, 2001" should be entered following the title of the invention or as the first sentence of the specification. Also, the current status of the parent nonprovisional application(s) should be included.

Claim Objections

6. Claims 1, 7 and 10 are objected to because of the following informalities:
- a) claim 1, in line 9, "planer" should read "planar";
 - b) claim 7, in line 1, "a foot sole" should read "the foot sole";
 - c) claim 10, in lines 3, 7, 10, 13 and 16, respectively, the numerals "1.", "2.", "3.", 4." and "5." representing the method steps should read as letters "(a)", "(b)", "(c)", "(d)" and "(e)", in order to avoid confusion with the claim numerals.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-3 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Tatum et al (U.S. Patent No. 5,908,397).

Tatum et al. disclose in Figures 1 and 5, a device for positioning and supporting legs during casting comprising:

With respect to claim 1:

- a) a member having a planar surface on one side (Figure 1, foot shell 120);
- b) operating means provided on the opposite side of the said member (Fig. 1, foot positioning supports 100) to said planar surface for operation of the member in the pressure application of the planar surface into contact with at least a part of the sole of a foot suitably positioned for the purposes (Fig. 5) and also for tilting the said member (Fig. 5) while the planar surface is in contact with the foot sole for appropriate support and joint or other location of the foot sole during the application and setting of moulding material to at least the sole of the foot (column 2, lines 11-23).

With respect to claim 2:

- a) wherein the said member carries means for measuring and indicating the angle of tilt of the planar surface when applied to a foot sole (Figure 5, dorsiflexion wedge 130) especially during the application and setting of moulding material (column 2, lines 11-23).

With respect to claim 3:

- a) wherein the device includes a leg rest (Fig. 1, knee support section 70) for placing on a seat or couch and for receiving and positioning a leg of patient seated on the

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seat or lying on the couch (column 3, lines 49-51) whereby the foot of the leg extends forwardly from the leg rest (Fig. 1), the said member being movably mounted from the leg rest for movement to or from an operative contact position of its planar surface with the foot sole and for the tilting of said surface relative thereto (Fig. 5).

With respect to claim 10, method of taking a mould of a foot using the device according to claim 1:

- a) the method steps claimed will be met during the normal operation of the apparatus stated above.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tatum et al. in view of Arkhipov et al. (RU-2020891 C1) and Donnery (U.S. Patent No. 4,771,548).

Tatum et al. disclose a device for positioning and supporting legs during casting, as stated above in paragraph 8. Tatum et al. do not disclose said member hingedly/pivotally mounted from the leg rest for movement about a substantially horizontal/vertical axis and a means

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provided for measuring and indicating the angle of angular movement of the said member and its planar surface about the substantially vertical axis.

With respect to said member hingedly/pivotally mounted from the leg rest for movement about a substantially horizontal/vertical axis, Arkhipov et al. teaches said member hingedly/pivotally mounted from the leg rest (pivots 7) for movement about a substantially horizontal/vertical axis (the Figure). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the device for positioning and supporting legs during casting of Tatum et al., so as to include said member hingedly/pivotally mounted from the leg rest for movement about a substantially horizontal/vertical axis, as taught by Arkhipov et al., so as to provide a greater enhancement in mobility during use of the device.

With respect to a means provided for measuring and indicating the angle of angular movement of the said member and its planar surface about the substantially vertical axis, Donnery teaches a means provided for measuring and indicating the angle of angular movement of the said member and its planar surface about the substantially vertical axis (Fig. 1, goniometer 10). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the device for positioning and supporting legs during casting of Tatum et al., so as to include a means provided for measuring and indicating the angle of angular movement of the said member and its planar surface about the substantially vertical

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axis, as taught by Donnery, so as to provide a means for facilitating objective and consistent assessment of angular movement.

11. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tatum et al. in view of Fullen et al. (U.S. Patent No. 5,678,448).

Tatum et al. disclose a device for positioning and supporting legs during casting, as stated above in paragraph 8. Tatum et al. do not disclose operating means for measuring and indicating the pressure of application of the said member when the planar surface thereof is in contact with the foot sole.

Fullen et al. teach operating means for measuring and indicating the pressure of application of the said member when the planar surface thereof is in contact with the foot sole (Fig. 2 and column 5, lines 64-69). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the device for positioning and supporting legs during casting of Tatum et al., so as to include operating means for measuring and indicating the pressure of application of the said member when the planar surface thereof is in contact with the foot sole, as taught by Fullen et al., so as to provide a compact force measurement system for minimizing restriction of movement by the user during use of the device.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited on PTO-892 and not mentioned above disclosed relative devices:

- a) River-Esquerdo discloses a casting stand for foot and leg;
- b) Melhart discloses an ankle stress machine with angular measurement capability;
- c) Hargadon discloses an appendage casting support stand;
- d) Sipe discloses a load/pressure signaling device for a patient's foot;
- e) Bliss discloses an adjustable limb support for casting purposes;
- f) Stryker discloses a foot holder for a cast table;
- g) Stevens discloses a limb supporting attachment with pivotable parts;
- h) Khoroshkov discloses a functional fixing procedure for applying a cast, and;
- i) Clayton discloses an instrument for making foot cast which includes a foot and leg support.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tania Courson whose telephone number is (703) 305-3031. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez, can be reached on (703) 308-3875. The fax number for this Organization where this application or proceeding is assigned is (703) 308-7724.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



DIEGO F.F. GUTIERREZ
SUPERVISORY PATENT EXAMINER
GROUP ART UNIT 2859

TCC
September 23, 2002